

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14409 of the Coalition for the Homeless, pursuant to Sub-section 8207.2 of the Zoning Regulations, for special exceptions under Paragraph 5102.473 to use the first, second and third floors of the subject premises as an emergency shelter for 35 women; under Paragraph 3105.476 to approve said facility for more than 25 persons and under Paragraph 3105.475 for the Board to approve more than one community based residential facility within 500 feet of each other in a C-2-A District at premises 455-457 Florida Avenue, N.W., (Square 3094, Lots 22 and 53).

HEARING DATE: April 9, 1986

DECISION DATE: May 7, 1986

FINDINGS OF FACT:

1. The site is located on the north side of Florida Avenue, N.W., between Rhode Island Avenue and 4th Street, to the east and Fifth Street to the west. It is known as 455-457 Florida Avenue, N.W. It is a C-2-A District.

2. Both lots 22 and 53 are trapezoidal in shape and have a combined frontage of 35 feet along Florida Avenue. The rear of the lots are adjacent to a public alley. The site is developed with two three and a half story brick row dwellings joined by passage ways in the interior.

3. The site is located in the LeDroit Park neighborhood a few blocks south of Howard University Hospital. To the rear or north of the property there is a 12 foot wide public alley, followed by the rear yards of row dwellings and flats in the R-4 District. To the east along Florida Avenue there are row dwellings in the C-2-A District. Frazier's Funeral Home is located on the corner of 4th Street and Rhode Island Avenue one block from the site. To the south across Florida Avenue there is a Post Office. To the southwest across Florida Avenue there are row dwellings in the C-2-A District and to the west are row dwellings in the C-2-A District. There is a liquor store located on the northwest corner of 5th Street and Florida Avenue one block from the site.

4. Pursuant to Sub-section 8207.2 of the Zoning Regulations the applicant is seeking special exceptions under Paragraph 5102.473 to use the first, second and third

floors of the subject premises as an emergency shelter for 35 women; under Paragraph 3105.476 to approve said facility for more than 25 persons and under Paragraph 3105.475 for the Board to approve more than one community based residential facility within 500 feet of each other.

5. The applicant has been operating an emergency shelter at the premises without a valid certificate of occupancy since the fall of 1985.

6. The facility operates 24 hours a day.

7. The interior design of the building resembles a dormitory. The first floor level consists of a reception area, offices, and kitchen. The basement level consists of dining and television viewing areas. The upper floors consist of bedrooms and lavatories. There is a fire escape at the rear of the building which serves these floors. The small rear yard is proposed to be improved with a patio for passive enjoyment (sitting, sunning) by the residents.

8. There are no other CBRFs located in the same square (3094) as the emergency shelter. There are two CBRF's located within 500 feet of the subject site.

9. Of the facility's present 35 residents only one has an automobile. This resident parks her car in legally available curb parking spaces on T Street. There are 15 staff persons employed by the facility. Of this number only five employees are on duty each shift. None of the employees drives to work. Employees either utilize public (Metrobus) transportation or are dropped off and picked up by car pool.

10. The shelter has a van which is used to transport residents and staff to health care, cultural and other destinations. The shelter has permission to park its van on the Post Office site across Florida Avenue.

11. The site abuts an alley off the rear yard; however, on-site parking in the rear yard is not feasible. The use of the yard for parking would not conform to the rear yard set-back requirements of the Zoning Regulations.

12. The facility has indicated its intent to comply with all applicable code and licensing requirements.

13. Except for an occasional visitor (City inspector, social worker), vehicular traffic is limited to two trash pick-ups, one grocery delivery, and one janitorial supply delivery, all weekly. The trash service is handled by a private contractor. All deliveries are brought to the rear by way of the alley as is the trash pick-up.

14. Noise beyond that typically experienced in a family oriented residential situation is unlikely. The masonry construction of the premises and its distance from the nearest residential dwellings preclude any chance of noise impact on neighboring properties. Excessive noise is also prohibited in the shelter's resident code of conduct.

15. The shelter has strict requirements pertaining to resident conduct which includes a provision which prohibits loitering, and other activity detrimental to its mission, which is to provide safe, clean and dignified accommodations for its residents and to be a "good neighbor".

16. The two facilities located within 500 feet of the proposed facility are at 447 S Street, N.W. and 421 T Street, N.W. 447 S Street, N.W. had been operated as a convalescent rest home in the past under a valid Certificate of Occupancy; however, presently the home is no longer in operation. The use was never licensed as a CBRF. The address of 421 T Street, N.W. is not now an operating CBRF.

17. The subject premises is physically capable of accommodating the 35 residents and staff without any overcrowding. The number of residents is also governed by fire and health licensing and code requirements. The additional ten persons being requested are in answer to a crisis level shortage of emergency shelter beds in the city.

18. By memorandum dated April 2, 1986, the Office of Planning (OP) recommended approval of the subject application. The OP reported that the use as proposed meets the special exception criteria which are instituted for the welfare of both the residents of the facility and the neighborhood. The OP noted that the shelter occupancy at this location is expected to have considerably less impact from a land use perspective than would be other uses permitted in the C-2-A District.

19. The OP further reported that the D.C. Office of the Coordinator for CBRF's supports the approval of the application.

20. The OP further reported that the Metropolitan Police Department stated that the facility is not expected to impact adversely upon any current or planned operations by the Department of the Third District.

21. By letter dated April 2, 1986, Advisory Neighborhood Commission (ANC) 1B reported that it voted to support the application if the Coalition complies with conditions listed in the agreement reached by the ANC and Coalition. The reasons given for the ANC's support include the facts that:

- a. since the property is zoned C-2-A it could be used for a more obnoxious use such as a poolroom, Seven-Eleven or fast food restaurant.
- b. the site would otherwise likely be vacant and thus a blight to the community.
- c. the community has noticed no adverse effects from the operation of the shelter to date.
- d. the building will be repainted and enhanced.
- e. parking should present no problem since streets for residential parking are separated from the shelter area and the use will generate minimal parking demand.
- f. no adverse cumulative impact of the other CBRF's in the area should result.

The Board concurs with the reasoning and recommendation of the ANC.

22. By letter dated April 2, 1986 the LeDroit Park Civic Association recommended approval of the application provided that the Coalition agrees to adhere to conditions stated in the agreement between ANC 1B and the Coalition.

23. The D.C. Commission on Social Services submitted a statement in support of the application reporting that the facility helps to satisfy a critical need for shelter for homeless women.

24. The Office of Emergency Shelter and Support services reported that the shelter is safe, clean, well - managed and provides a much - needed service to homeless women.

25. The Downtown Cluster of congregations, the Sasha Bruce Youth Work Inc. and numerous other community groups operation in the District submitted letters in support of the application.

26. D.C. City Councilmembers Betty Ann Kane, Charlene Drew Jarvis, Hilda Mason, John Ray and Frank Smith Jr. submitted letters to the record in support of the application and the "Agreement between Advisory Neighborhood Commission 1B and the D.C. Coalition for the Homeless concerning BZA Application No. 14409".

27. Neighbors of the site submitted letters to the record and testified in support of the application. Many stated that the shelter was well run and well maintained. The shelter offers a structured and constructive program.

28. By letter dated April 8, 1986 the LeDroit Park Preservation Society reported that LeDroit Park has already suffered adverse effects from University expansion, parking, traffic problems, real estate speculation and drug problems. The impact of the facility will compound the problems.

29. A petition was submitted to the record in opposition to the application. The grounds were unstated.

30. A number of neighbors of the shelter testified in opposition to the application at the public hearing stating that the shelter attracts homeless people to the neighborhood who wonder around. One woman testified that if the special exception is granted to the shelter, which started to operate without a valid certificate of occupancy, other operations will be encouraged to open without permits expecting they will receive approval later.

CONCLUSION OF LAW AND OPINION:

Based on the Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a special exception, the granting of which requires substantial evidence that the applicant has complied with the requirements of Paragraph 5102.473 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has met its burden of proof. Paragraph 5102.473 allows that the emergency shelter may be approved subject to the standards and requirements of sub-paragraphs 3105.471 through 3105.475 which state that:

3105.471 There shall be no other property containing a community based residential facility for five or more persons within a radius of 500 feet from any portion of the subject property;

3105.472 There will be adequate, appropriately located and screened off-street parking to provide for the needs of occupants, employees and visitors to the facility;

3105.473 The proposed facility shall meet all applicable code and licensing requirements;

3105.474 The facility will not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of similar facilities in the area;

3105.475 The Board may approve more than one community based residential facility in a square or within 500 feet only when the Board finds that the cumulative effect of the facilities will not have an adverse

impact on the neighborhood because of traffic, noise or operations;

3105.476 states that the Board of Zoning Adjustment may approve a facility having more than 25 persons only if the Board finds that the program goals and objectives of the District of Columbia cannot be achieved by a facility of a smaller size at the subject location and if there is no other reasonable alternative to meet the program needs of that area of the District of Columbia.

There are no other CBRF's located in the same square as the shelter site. There are two CBRF's within 500 feet of the site. Pursuant to Paragraph 3105.475 the Board finds that the cumulative effect of the facilities will not have an adverse impact on the neighborhood. The shelter will not generate a substantial demand for parking for employees or residents. Arrangements have been made to park the shelter's van at a nearby site. There is adequate on-street parking for the occasional parking needs of the shelter. The facility has indicated its intent to comply with all applicable code and licensing requirements. The facility will not have an adverse impact on the neighborhood because of traffic, noise, operations or the number of similar facilities in the area. The Board finds that the program goals and objectives of the District will be better achieved by a facility for 35 people. The goals would not be adequately achieved by a smaller facility at the subject location. There is not another reasonable alternative to meet the program needs of that area. The Board finds that in the time that the shelter has operated it has not shown itself to be obtrusive or objectionable to the neighborhood. Problems such as university expansion, drug problems etc. as raised by the opposition are not relevant to the application. Further, although the shelter began operation without a valid certificate of occupancy, future applications for additional CBRF's will each be judged on their own merits.


The Board further concludes that the special exception can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map and it will not affect adversely the use of neighboring property. The Board concludes that it has accorded to Advisory Neighborhood Commission 1B the "great weight" to which it is entitled. Accordingly, it is ORDERED that the application is GRANTED, SUBJECT to the following CONDITIONS:

1. Approval shall be for a period of FIVE YEARS.
2. The number of residents at the facility shall not exceed thirty-five.

VOTE: 4-0 (Charles R. Norris, Paula L. Jewell, William F. McIntosh, and Carrie L. Thornhill to grant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: AUG 7 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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